

ADOPTION

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**QUESTIONNAIRE ON THE PRACTICAL OPERATION
OF THE 1993 HAGUE INTERCOUNTRY ADOPTION CONVENTION**

drawn up by the Permanent Bureau

*Preliminary Document No 2 of October 2014 for the attention of the
Special Commission of June 2015 on the practical operation of the
Hague Convention of 29 May 1993 on Protection of Children and
Co-operation in Respect of Intercountry Adoption*

*Document préliminaire No 2 de octobre 2014 à l'intention de la
Commission spéciale de juin 2015 sur le fonctionnement pratique de la
Convention de La Haye du 29 mai 1993 sur la protection des enfants et
la coopération en matière d'adoption internationale*

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INTRODUCTION

This Questionnaire is the second and last to be prepared for the purposes of the upcoming meeting of the Special Commission on the practical operation of the 1993 Hague Convention.¹ The first Questionnaire (Prel. Doc. No 1 of July 2014) requested information from Contracting States concerning the impact which implementation of the 1993 Convention has had on laws and practices relating to intercountry adoption and child protection systems more generally over the past 20 years. That information was sought in order to inform the first day of the Special Commission meeting which will be dedicated to "20 years of the 1993 Convention". This second Questionnaire is the more usual questionnaire on the practical operation of the 1993 Convention. It seeks to elicit information from States concerning their current practices and any problems and / or challenges they may have faced in relation to the implementation and operation of the Convention.

This Questionnaire is addressed to Contracting States to the 1993 Convention. As a result, non-Contracting States (whether Members of the Hague Conference on Private International Law or not) should not feel bound to respond but may provide a response or any comment should they so wish. In addition, please note that questions are addressed to both States of origin and receiving States, save where a heading expressly provides otherwise.

Please send your response to this Questionnaire to secretariat@hcch.net, for the attention of Laura Martínez-Mora (Principal Legal Officer) and Hannah Baker (Senior Legal Officer) **by no later than 22 December 2014**. The Permanent Bureau will place all replies to this Questionnaire on the Hague Conference website < www.hcch.net > unless expressly asked not to do so.

Please note: if information provided by your State in response to the first Questionnaire (Prel. Doc. No 1) or your State's Country Profile for the 1993 Hague Convention assists with your answer to any question herein, please cross-refer to these other responses. There is no need to repeat information.

Thank you for your kind co-operation as the Permanent Bureau prepares for the next Special Commission meeting in June 2015.

¹ This Fourth Meeting of the Special Commission will take place in June 2015. Full title: *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (hereinafter, "1993 Hague Intercountry Adoption Convention", "1993 Hague Convention", "1993 Convention" or simply "the Convention").

Name of State:	-PHILIPPINES
Date of entry into force of 1993 Hague Convention in your State:	November 1, 1996
<u>Information for follow-up purposes</u>	
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I. **ADOPTABLE CHILDREN, ADOPTEES AND PROSPECTIVE ADOPTIVE PARENTS**²

A. **Adoptable children and adoptees**

The profile of children in need of intercountry adoption

States of origin only

1. Please explain any *challenges* your State has encountered, and any *good practices*³ it has developed, in relation to the compilation and provision of information to receiving States regarding the:
 - (a) characteristics and needs of adoptable children in your State;⁴ and
 - (b) approximate number of children in need of intercountry adoption in your State.

The average profile of Filipino children in need of inter-country adoption are from 1 year old to 15 years old, both male and female, healthy or with minor medical or psychological conditions. However through the years, ICAB noted that Filipino children belonging to the age range of 1-4 years old and male have been increasing. ICAB cannot approximate the number of children in need of intercountry adoption as the Philippines through the Department of Social Welfare and Development (DSWD) is exerting its efforts to have the children in institutions/centers who have been certified legally available for adoption placed to families through local/domestic adoption. For the past 19 years, ICAB received 9,017 cases of children cleared for intercountry adoption placement of which 6,748 or 75% have been entrusted to their adoptive parents.

Receiving States only

2. Please explain any challenges your State has encountered in ensuring that:
 - (a) the *nature* and *number* of applications for intercountry adoption which your State sends to States of origin appropriately match the profile of children in need of intercountry adoption in those States;⁵ and

² Part I of this Questionnaire has been prepared in light of Conclusion and Recommendation No 10 from the 2010 Special Commission meeting which states: "The Special Commission recommended that the Permanent Bureau, in consultation with Contracting States and non-governmental organisations, collect information on the selection, counselling and preparation of prospective adoptive parents, with a view to the possible development of the Guide to Good Practice No 3. This may include a discussion on good practices in dealing with failed adoptions and the period of validity of the 'home study' report." Please note: hereinafter, Conclusions and Recommendations from past Special Commission meetings are referred to as "SC 20XX C&R No X". All Conclusions and Recommendations are available on the Hague Conference website < www.hcch.net > under "Intercountry Adoption Section" then "Special Commissions".

³ In this Questionnaire, "good practices" should be given a broad meaning and should be taken to include any legislative reform, procedures or practices which your State might have implemented regarding the particular topic.

⁴ See SC 2005 C&R No 12 which states: "[t]he Special Commission recognises the importance of States of origin sending information to receiving States on the needs of children to better identify prospective adoptive parents". Please note that the Country Profile for States of origin requests that States of origin provide information concerning the profile of adoptable children (at question 9) and thus it may be that your State has encountered challenges in responding to this question which you wish to describe here.

⁵ See para. 553 of *Guide to Good Practice No 2 "Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice"* ("GGP No 2") which states that receiving States should respect "the requirements of

- (b) the information provided by States of origin concerning the characteristics, needs and number of adoptable children is adequately taken into account in the counselling and preparation of prospective adoptive parents (“PAPs”).⁶
Please also share any good practices your State has developed in this regard.

- Please insert text here -

Adoptability

Both States of origin and receiving States

3. (a) Please briefly describe any difficulties your State has encountered in relation to the decision regarding a child’s adoptability, including the transparency of any such decision and the independence of the body taking this decision.⁷

The Philippines has not encountered any difficulties in relation to the decision regarding a child's adoptability as there are criteria and standards applied to determine whether the child is adoptable based on local laws, policies and procedures. With the enactment of Republic Act 9523, all children must first be certified legally available for adoption by the DSWD. The DSWD certification is the primary evidence that the child is legally available in a domestic or intercountry adoption proceeding.

- (b) Has your State encountered any particular difficulties with adoptability decisions in the context of *intra-family* intercountry adoptions? If so, please explain.

Yes. In some of the encountered relative adoption or intra-family adoption, the eligibility and suitability of the prospective adoptive parents have to be fully scrutinized and stringently assessed to fully determine whether the possible adoption is in the child's best interest as it is not to be presumed that a relative adoption is better. Further, there are cases where the purposes/reasons of the birthparents have to be re-assessed to fully determine the validity of their decision to give up a child for adoption.

Reports on children

Both States of origin and receiving States

4. Please explain any challenges your State has encountered in preparing (States of origin) or obtaining (receiving States) full, accurate and up-to-date reports, including medical reports, on adoptable children in accordance with Article 16(1) a).⁸ Please specify any particular difficulties encountered in the case of children with “special needs”.⁹

Some challenges confronting the program is in obtaining reports particularly on medical, developmental and psychological assessment evaluation of children particularly those with special needs since there is very limited number of available medical or psychological practitioners/experts in some regions of the Philippines. The child has to queue and wait for available schedule and be transported to another region for the required evaluation/assessment.

States of origin regarding the profile and number of adoptable children, as well as the desired profile of prospective adoptive parents”.

⁶ See SC 2005 C&R No 13: “[t]he Special Commission recognises that as a matter of good practice, authorities in receiving States should co-operate with authorities in States of origin in order to better understand the needs of children in States of origin”, and SC 2010 C&R No 8: “States of origin may assist receiving States in establishing their criteria for the selection of prospective adoptive parents by providing information about the characteristics and needs of adoptable children. This information will also contribute to the development of preparation materials on intercountry adoption directed to prospective adoptive parents, and to the management of their expectations.”

⁷ See SC 2010 C&R No 1 b).

⁸ *E.g.*, concerning children’s physical and psychological health, identity or social situation.

⁹ You may wish to cross-refer to your State’s Country Profile at question 13 (States of origin) and question 11 (receiving States) concerning your State’s definition of children with “special needs”.

Receiving States only

5. (a) If reports on children appear deficient or incomplete, what measures, if any, does your State take to remedy or ameliorate the situation?

The ICAB Secretariat social worker, in coordination with the concerned Department of Social Welfare and Development Field Office, particularly for intra-family adoption, undertake a re-validation visit to the birthparents and the concerned prospective adoptive child place of residence. For non-relative adoption cases, the ICAB requires clarificatory information and submission of updated documents to complete the case of the child.

- (b) Please specify how, in your State's view, reports on children provided in accordance with Article 16(1) a) could be improved in general.

The Philippine intercountry adoption program relies on the reports/documents submitted by the Child Caring Agencies (CCAs), both from governmental or non-governmental agencies. Standards have been established and being institutionalized as to the necessary information about the child and his/her background which have to be included/reflected in the Child Study Report as well as supporting documents required. CCAs have been encouraged to obtain as much information they can get once the child is brought to their care and custody or investigate when the child is abandoned. Further, CCAs are required to include in the case folder of the child, photograph/s of the birthfamily/parent (if applicable) or any material that may connect the child to his birthfamily in the future. Case files of the children are retained in the CCAs and are to be kept for life. Should the CCA close operation, all casefolders are turned-over to the DSWD Regional Field Office where the CCA is situated.

Matching

Both States of origin and receiving States

6. Has your State had any experience of cases in which PAPs are declared eligible and suited to adopt a particular profile of child(ren) but are subsequently matched with a child or children with different needs? (*E.g.*, PAPs are declared eligible and suited to adopt a child under the age of 5 but are subsequently matched with siblings aged 7 and 9.) If so, please explain, in your State's experience, the reasons for this and how your State has dealt with such cases.

Generally, ICAB follows the child preference indicated by the PAPs as approved by their FAA/CA. In instances where there is wide range of child preference as indicated by the PAPs and based on their accomplished Child Preference Check-List, ICAB coordinates with the CA/FAA and explores with the PAPs their readiness/willingness to be matched with a child beyond their preference range. Only upon the official response from the FAA/CA on the decision of the PAPs can they be matched to a child beyond their preference.

Preparation and counselling of children

Both States of origin and receiving States

7. Please share (a) any *challenges* encountered in your State or in other Contracting States, and (b) any *good practices* implemented in your State or in other Contracting States, regarding the preparation of children for intercountry adoption, including counselling and informing children and ensuring that, having regard to their age and degree of maturity, their wishes and opinions have been adequately heard and taken into account.

- A. Challenges: 1) Caregivers and/or some social workers lack the necessary skills for counseling and preparing children for intercountry adoption;
2) Limited tools and resources to use in preparing children for intercountry adoption

- B. Good Practices: 1) Some Child Caring Agencies have taken their initiative to train (in-house) their caregivers and social workers in preparing children for adoption through use of audio-video, and art materials.
- 2) Once the child is officially accepted by their adoptive parents, the child is exposed to the different modern and high technologically made equipments (washing machine and dryer); diverse food opportunities; experiential learning through visit to malls to ensure familiarity with elevator/escalator and visit to places in the Philippines approximating climate of Receiving Country.
- 3) Children are given reading materials about the country of residence of the PAPs to ensure familiarity to country - history, culture, lifestyle, etc.
- 3) Preparation of lifebook of the child.

B. Prospective adoptive parents (“PAPs”)

Selection of PAPs: eligibility and suitability to adopt intercountry

Both States of origin and receiving States

8. Please explain any challenges your State has encountered, and any good practices it has developed, in relation to preparing (receiving States) or obtaining (States of origin) full, accurate and up-to-date reports on PAPs, as required by Article 15, including eligibility and suitability assessments of PAPs.

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States of origin only

9. (a) If reports on PAPs appear deficient or incomplete, what measures if any does your State take to remedy or ameliorate the situation?

The review/assessment of eligibility and suitability of adoption applicants with incomplete or insufficient information or lacking supporting documents are held in abeyance until the full submission of clarificatory informations and documents. ICAB Secretariat writes the endorsing FAA/CA and require the submission of clarificatory information or additional supporting documents.

- (b) Please specify how, in your State’s view, reports on PAPs provided by receiving States in accordance with Article 15 could be improved in general.

The reports can be improved with a thorough explanation of the parents capacity to respond in respect to the category of a child or to the age of the child as well as to potential difficulties relating to adoption such as learning to communicate with the child particularly those who have been living for extended periods in the institution, those who have loss parents in disasters, if a child is mentally or has suffered severe psychological trauma/abuse, etc. There is no uniformity in the submitted reports - some FAA include the list, content and methods of training availed by the PAPs and the counseling/services provided to the PAPs while others do not.

Counselling and preparation of PAPs

States of origin only

10. (a) Has your State encountered any difficulties resulting from inadequate counselling and preparation of PAPs by receiving States? If so, please provide examples and explain what measures your State takes to remedy or ameliorate the situation in these cases.

Yes. Expectation to receive a perfect child. Therefore additional training for PAP's on Intercountry Adoption.

- (b) In your State's experience, what could be done to improve the counselling and preparation of PAPs in general?

There is always a need to keep improving the kind of training due to changes in the country situation at the time of adoption.

Receiving States only

11. What are the main challenges your State encounters when counselling and preparing PAPs for an intercountry adoption?¹⁰ Please share any good practices your State has developed to address these challenges.

N/A

12. The Special Commission has previously emphasised "the need for country specific preparation and for prospective adoptive parents to have some knowledge of the culture of the child and his or her language in order to communicate with the child from the matching stage".¹¹ How does your State ensure that this recommendation is complied with? Does your State have any good practices to recommend in this regard?

N/A

13. How does your State deal with the waiting time between:

- (a) the eligibility and suitability assessment of PAPs and the transmission of their application to the State of origin?

N/A

and

- (b) the transmission of the PAPs' application to the State of origin and the receipt of the proposed match from the State of origin?¹² (*E.g.*, does your State routinely update the reports on PAPs in this period?¹³ Does your State, or the relevant adoption accredited body, engage in regular communication with the State of origin on this issue?)
- Please insert text here -

C. Intercountry adoptions involving children with special needs¹⁴

Both States of origin and receiving States

14. (a) In your State's experience, what are the most common "special needs" of children adopted intercountry?

¹⁰ You may wish to refer to your State's response to the Country Profile at question 15. *E.g.*, managing their expectations concerning the profile of adoptable children or waiting times, ensuring preparation materials / courses adequately prepare PAPs for the specific needs of an adoptable child.

¹¹ See SC 2010 C&R No 9.

¹² Your State may engage in a "reversal of the flow of files" with States of origin or other procedures such that waiting times are minimised: see further *Guide to Good Practice No 1 "The Implementation and Operation of the 1993 Intercountry Adoption Convention"* ("GGP No 1") at Chapter 7.3.3, para. 394.

¹³ You may wish to refer to your State's response to the Country Profile at question 17 d).

¹⁴ See note 9 above regarding your State's definition of "special needs".

Children with special needs refer to any child who is difficult to place in view of some physical, psychological and/or social limitations including but not limited to being an older child, belonging to a sibling group or those who may be under analogous circumstance (Definition of Terms RA 8043 Amended IRR)

- (b) If possible, please specify approximately what percentage of children adopted intercountry from or to your State¹⁵ have "special needs" (as defined by your State)?

From 1995-2014, a total of 9,017 children were cleared for intercountry adoption including in family adoption of which 1,597 or 17.71% are children with special needs. Among those children 1,070 or 15.86% were entrusted to their adoptive parents/family.

- (c) What measures, if any, has your State taken to adapt intercountry adoption procedures in light of the needs of these children?

Children under the special needs category who are hard to place and wait longer for placement were re-categorized into "Children for Special Home Finding" and ICAB advocates for these children by institutionalizing special recruitment of adoptive parents for these children. Also, ICAB has institutionalized the "Hosting Program" in coordination with USA-based adoption agencies where the children ages 7-18 years old, cleared for ICA experience 3-4 weeks of living with hosts families who may eventually pursue adoption of the particular hosted child/ren.

- (d) What are the main challenges which your State encounters in relation to the intercountry adoption of children with special needs? How does your State address those challenges?

The ICAB initially developed the Special Home Finding/Recruitment services where prospective adoptive parents through their FAA/CA are provided with a synopsis of the child's background and should they be interested, the FAA request ICAB for the dossier of the child/ren which will be the final basis of the PAPs decision to pursue adoption or not. This strategy helped ICAB in placing a number of children - older, sibling group of 2-7 (in 2013, ICAB was able to place sibling group of 7 to an adoptive family), with minor medical or psychological disorder in permanent families.

In 2004, the ICAB partnered with 2 USA-based FAA to pilot test the summer hosting program where children with special needs/for special home finding stays with host families for 3-4 weeks during summer to experience what it is to live in a family (majority of these children have protractedly stayed in institutions), experience a new lifestyle and culture as well as exposure to a different way of life. The Hosting Program has expanded to cover all seasons and is being undertaken by 6 USA-based FAAs. This strategy ensured 80% of children participants were placed with their host families who pursued the adoption placement.

Receiving States only

15. In relation to the intercountry adoption of children with special needs, how does your State ensure that:
- (a) the parenting abilities of PAPs and their ability to cope with the particular special needs are appropriately assessed?
N/A
- (b) any PAPs selected are suitably prepared for such adoptions and for the specific needs of each child?
N/A
- (c) adoptive families are provided with appropriate post-adoption support in light of the child's special needs?
N/A

¹⁵ Depending upon whether your State is a State of origin or a receiving State.

D. Post-adoption services for adoptees and adoptive parents

Both States of origin and receiving States

16. How, if at all, has your State implemented the recommendation of the 2010 Special Commission meeting that States should “provide different forms of assistance and counselling for different stages of the child’s development to adulthood, including preparation for origin searches and reunions of the adoptees with members of their biological families”?¹⁶

Current ICAB Policies /Practices on Post Legal Adoption Services:

- a. The adoptive parent in behalf of the adoptee, an adult adoptee or the Foreign Adoption Agency may request for information that will provide context and meaning to their experience.
- b. Identifying information e.g. names, address, personal background etc. may be shared only between and among the adoptive parents, adoptee and his/her birthparents with a written consent from those concerned.
- c. Non-identifying information e.g. medical records, circumstances which led to the adoption but not necessarily divulging the identity of concerned individuals, etc. may be made available to both adoptive parents and adoptee under the age of 18 years old.
- d. The ICAB has been hosting Motherland/Heritage Tours of minor or adult adoptees together with their adoptive parents and Foreign Adoption Agency representatives.
- e. ICAB determines the motivations and preparedness of the individual to pursue the search.
- f. Considering the emotional maturity of the adoptee/s in the search process, the appropriate age for an adoptee to initiate the search shall be the age of majority applicable under the laws of the Receiving Country.
- g. ICAB coordinates with the Department of Social Welfare and Development (DSWD), Child Caring Agency(CCA)/orphanage/center/institution for the post legal adoption services and coordinate efforts to assist the requesting party.
- h. Before a search and reunion is pursued it is important to understand from the start that ICAB may not have success in locating the person/birth family an adoptee hopes to find.
- i. Before any search and reunion request is made, the adoptee and the adoptive parents must undergo the search and reunion preparation counselling/therapy.
- j. Preparation takes into careful consideration the readiness of the adoptee and the birth mother and the significant person/s.
- k. Consent and approval from the birth family, adoptive parents and adoptee are secured before contact and/or reunion with each other is arranged.

Receiving States only

17. Please specify any challenges your State has encountered in ensuring that adequate support is in place for adoptive parents and adoptees following an intercountry adoption, including where parents have adopted a child with special needs.¹⁷ Please also share any good practices your State has developed to overcome these challenges.

N/A

E. Breakdown of intercountry adoptions

Both States of origin and receiving States

¹⁶ SC 2010 C&R No 29.

¹⁷ *E.g.*, difficulties coping with an increased demand for post-adoption services or with a need for more specialised services, or difficulties in determining how services should be funded. You may wish to cross-refer to your State’s response to the Country Profile at Part IX concerning the services and support which your State provides.

18. If your State has had experience of intercountry adoptions which have broken down subsequent to the adoption (sometimes referred to as "failed" or "disrupted" adoptions), please explain, in general terms:

- (a) what have been the main causes of the breakdowns in these cases (e.g., deficient reports on the child, including failure to identify specific physical or psychological health needs in the report, inadequate preparation of the child or PAPs, inadequate post-adoption support).

For the past 19 years of ICAB's existence, there were 145 disrupted adoption placements. Majority of the disrupted placements are relative adoptions where no replacement family is identified and repatriation is the option available. Causes of the disruptive placement are

the following:

1. unrealistic expectation of the adoptive child and/or the adoptive parents about the adoption placement;
2. deficient reports on the child particularly on information about psychological problems or abuse or medical information;
3. divorce or separation of the adoptive parents prior to the finalization of adoption;
4. adoptee "fell in love" with the adoptive father;
5. adoptive mothers unreasonable tendency/attitude to compare biological son with adoptive child;
6. high educational achievement expectation of adoptive parents of the adoptive child;
7. sexual acting out of the adoptive child;
8. inability of the adoptive mother/parents to handle the multiple special needs of the child i.e deaf-mute and blind;
9. behavioral disorder of the child which the adoptive parents cannot handle.
10. difficulty in developing a "bonding" relationship and understanding the behavior of a 2 year and 5 month old child;
11. the adoptive mother's psychological and emotional unpreparedness to assume the expected parental role, parenting demands and responsibilities towards the adoptive child;
12. the adoptive mother's unpreparedness to meet the needs of an adopted child because she would like to focus on finishing her college degree.
13. attachment issues and adjustment difficulties; and
14. an adoptive father's development of romantic feelings towards the adoptive child.

- (b) how your State has *addressed* these situations. Does your State have any good practices to share in this regard?

For non-relative adoption placements, in the event of the serious damage in the relationship between the child and the applicant/s where the continued placement of the child is not in his/her best interests, the CA and FAA takes necessary measures to protect the child, in particular, to cause the child to be withdrawn from the applicant/s and to arrange for his/her temporary care. The CA or FAA shall exhaust all means to remove the cause of the unsatisfactory relationship which impedes or prevents the creation of a mutually satisfactory adoptive relationship. A complete report should be immediately forwarded to the Board with actions taken as well as recommendations and appropriate plans. Based on the report, the Board may terminate the pre-adoptive relationship. In every instance, the collaboration between and among the CA and the FAA and the Board shall be carried out to ensure the protection of the child. In the event of termination of the pre-adoptive relationship, the Board shall identify from the Roster of Approved applicants a suitable family with whom to place the child. (Guidelines on disruption)

- (c) what steps, if any, your State has taken to try to *prevent* these situations occurring in future.

In cases of disruption or aborted placement, the ICAB calls for a case conference with the concerned Child Caring Agency where the child came from, the DSWD Special Operations Office and with the Liaison Service Agency (if applicable) to discuss the status of the child

(in respite care, foster care or replacement family); reason/s of the disruption; trace the probable cause; determine/identify the gaps which led to the disruption and identify plans of action (replacement family or repatriation). The experience will ensure a heightened awareness for future cases and prevention of reoccurrence.

The ICAB requires the CCA social workers to be truthful in the content of the Child Study Report (CSR) which will provide the PAPs with sufficient information as basis to determine if they are capable to handle the demands of such child referral and make preparation for adoption parenthood for such child. Likewise capacity building packages are provided to local partners/social workers to systematize and conceptualize important, integral facts and features, information and circumstances that are basic inputs in the CSR; to recognize and understand the loss and grief issues in adoption that affects the child and birth parents and facilitate the early resolution of these conflicts which generally if left unresolved impacts on the adoption relationship of the child towards adoptive parents; to identify red flags in the psycho-social development of the child for early detection and intervention as well as introduce and identify various tools, techniques and resources to prepare the child for adoption.

F. Open adoption

Both States of origin and receiving States

19. Does the term "open adoption" (or similar) exist in your State's domestic legislation or rules? If so, please explain how it is defined. If not, please explain what is understood in your State by the term "open adoption" or "openness in adoption".

NO

20. Please specify what type of openness in intercountry adoption is: (a) permitted according to your State's domestic *legislation or rules*; and (b) promoted *in practice* in your State.¹⁸

NONE

21. If possible, please specify approximately what percentage of intercountry adoptions involving your State include some element of openness. Has this number increased in recent years and, if so, what, in your State's view, are the reasons for this? What challenges have arisen as a result and how has your State sought to address these challenges?

Not Applicable

G. Discussion at the upcoming Special Commission meeting

Both States of origin and receiving States

22. Which topics / issues does your State consider are the most important to discuss at the Special Commission in relation to the counselling and preparation of children and the selection,¹⁹ counselling and preparation of PAPs for intercountry adoption?

Standardized Content, man hours and frequency of trainings provided/availed of by PAPs as preparation for ICA.

Role of social media in post adoption concerns (search and reunion) for both child and adoptive parents.

¹⁸ *E.g.*, disclosure of identities of biological and adoptive families, post-adoption contact.

¹⁹ The "selection" of PAPs in this context is taken to mean the assessment of the PAPs' eligibility and suitability to adopt intercountry.

23. Does your State consider that there is any merit in developing a Guide to Good Practice on the selection, counselling and preparation of PAPs for intercountry adoption, as recommended by the last meeting of the Special Commission in 2010, and on the preparation and counselling of children?²⁰ If so, which particular issues would your State wish to see addressed in such a Guide?

Yes. Issues on preparation of PAPs in communication (learning the language of the adoptive child to facilitate adjustment); Standardization of content of counseling of PAPs to handle children who have stayed long in institutions and/or experienced trauma and abuse; content and list of trainings of PAPs to address needs of child per category and per age. Descriptive support services of FAA/CA to PAPs encountering challenges and difficulties in adoption parenthood.

II. SOME SPECIFIC ISSUES ARISING IN THE INTERCOUNTRY ADOPTION PROCEDURE

A. Article 17 agreements

Both States of origin and receiving States

24. Please indicate any operational difficulties which your State has experienced, either in your State or in other Contracting States, in relation to obtaining the agreements required in Article 17 and, in particular, Article 17 c).²¹

N/A

B. Recognition of adoptions made in accordance with the Convention (Chapter V)²²

Both States of origin and receiving States

25. (a) Previous Special Commission meetings²³ have repeatedly emphasised the importance of:
- clearly designating the authorities competent to issue Article 23 certificates and keeping this information updated;
 - promptly issuing such certificates without delay following an adoption decision made in accordance with the Convention;
 - providing parents with a copy of the Article 23 certificate before they come to take the child;
 - providing a copy of the certificate to the Central Authority in the receiving State;

²⁰ See SC 2010 C&R No 10 (*op. cit.* note 2).

²¹ *E.g.*, lack of clarity concerning the body which should provide the Art. 17 c) agreement, breakdown of State-to-State communications concerning the agreement, lack of clarity concerning which State should provide its agreement first.

²² When answering this section, you may wish to cross-refer to your State's response to question 13 of Questionnaire No 1.

²³ *E.g.*, see SC 2000 C&Rs Nos 17 to 19, SC 2005 C&R No 3 and SC 2010 C&Rs Nos 15 to 17.

- using the "Model Form for the Certificate of Conformity of Intercountry Adoption"²⁴ to promote consistent practice; and
- where an Article 23 certificate is incomplete or defective, co-operating to regularise the situation.

Despite the above recommendations, has your State continued to experience difficulties with the issuance or receipt of certificates of conformity under Article 23?²⁵ If so, please explain the difficulties encountered, including how your State has sought to remedy or ameliorate the situation.

No

- (b) Taking into account the previous recommendations made on this topic, does your State have any novel suggestions concerning how to improve practices regarding Article 23 certificates?²⁶

- Please insert text here -

C. Delays in intercountry adoption procedures

Both States of origin and receiving States

26. Does your State have any comments on the speed with which Convention adoptions are processed?²⁷ If your State has experienced any unnecessary delays, what has caused these delays and are they at a particular stage of the intercountry adoption procedure?

Delays if any relate to visa issuance and visa medical issues.

27. Does your State have any good practices to share or recommendations as to how delays in the intercountry adoption procedure might be minimised, whilst still ensuring that the safeguards of the Convention are respected?

Medical issues that are treatable by medication should be done/ continued in the receiving country.

D. Co-operation issues

Both States of origin and receiving States

28. In your State's experience, is the day-to-day co-operation with other Contracting States working well (*e.g.*, sending and receiving documents,²⁸ prompt responses to enquiries and questions, openness to discussing problems and finding solutions)? Please specify any difficulties and concerns.

Yes, but some accredited/authorized bodies are very demanding.

²⁴ See GGP No 1, Annex 7.

²⁵ *E.g.*, deficient or no certificates issued, delays in sending certificates, confusion concerning which authorities should issue the certificate, confusion concerning to whom the certificates should be sent.

²⁶ *E.g.*, how to better promote the use of the Recommended Form, ensure designations under Art. 23.

²⁷ See SC 2005 C&R No 14: "[t]he Special Commission reminds States Parties to the Convention of their obligations under Article 35 to act expeditiously in the process of adoption, and notes in particular the need to avoid unnecessary delay in finding a permanent family for the child".

²⁸ *E.g.*, has your State encountered any difficulties due to other Contracting States requesting documents / information which your State is not permitted to provide according to your domestic legislation, or due to your State requesting documents / information from other Contracting States which they are not permitted to provide (such as identities of biological parents, statements of consent, judgments regarding the withdrawal of parental rights, medical reports on PAPs)?

29. At the meeting of the Special Commission in 2000, “[t]he need for adequate resources and appropriately trained staff in Central Authorities was accepted, as well as the importance of ensuring a reasonable level of continuity in their operations.”²⁹ Has your State continued to encounter difficulties in this regard, whether in your State or in other Contracting States?

There is a lack of information on how the process really works in the receiving country and vice-versa.

30. Has your State made or received from other Central Authorities any “general evaluation reports” about experiences with intercountry adoption as specified in Article 9 d)?

If so, have these reports proved useful? Please explain to what use they have been put and the follow up undertaken.

If not, does your State consider that the preparation of such reports should be encouraged as helpful in promoting the regular review of practices and co-operation between States?

Yes, they are useful it allow the Philippine Central Authority the leeway to make adjustments in the process to speed up the actual process.

III. SPECIFIC TOPICS FOR CONSIDERATION

A. The subsidiarity principle (Art. 4 b))

Both States of origin and receiving States

31. Please describe the laws, procedures and practices in your State which seek to ensure that an appropriate balance is struck between providing sufficient support to biological families to enable the family to be preserved or reunified where possible, while at the same time preventing excessive delay in declaring a child adoptable and finding a suitable alternative permanent family for the child if necessary.

The biological parents are always encouraged to maintain the custody of their own children with available psychosocial welfare services made available to them to offset any psycho-socio-economic impediments which are predisposing such parents to abuse/exploit and surrender their child/ren. Hence, before any child can be placed for adoption, the law requires the following steps to be taken:

1) Counseling sessions with the biological parents or guardians to ensure that no hurried decisions are made and all alternatives/options for the child’s future and the implications of each alternative have been provided;

2) Counseling sessions with the child to ensure he understands the nature and effects of adoption and is able to express his views on adoption in accordance to his age and level of maturity.

After being properly counseled and informed of the implications of adoption, and the biological parents or guardians remain steadfast on their decision to give up or surrender the child for adoption, the written consent is required indicating that the biological parents or guardians voluntarily, irrevocably and unconditionally committed the child/ren for adoption (Deed of Voluntary Commitment or DVC). Existing laws in the Philippines e.g. P.D. 603, Family Code, RA 7610, Domestic Adoption Act of 1998 and the Inter-Country Adoption Law of 1995 have provisions that will ensure that no undue financial gain or material rewards will be employed to effect relinquishment of (a) Filipino child/ren for

²⁹ See SC 2000 C&R No 3.

the adoption. Otherwise, any subsequent adoption emanating from such a consent is considered as illegal adoption.

In cases where the biological parents have abandoned the child/ren, the law requires that the child's parents be located. Hence, all reasonable means have to be exhausted to look for them i.e. announcement on radio and television, publication in a newspaper with the photo of the child and notices in the locality or residence of the child to inform the public. If such efforts fail, the Child Caring Agency who has custody of the abandoned child shall file a petition for the child to be declared legally available for adoption by the DSWD (Republic Act 9523). If the child has no known facts of birth, such child shall be issued a Foundling Certificate by the Local Civil Registrar.

The Philippines subscribes to the principle of subsidiarity, recognizing that inter-country adoption may offer the advantage of permanent family to a Filipino child for whom a suitable family cannot be found in his country of origin. While recognizing that each child is special and that decisions affecting the child's life must be based on a full respect of his uniqueness, the following is the hierarchy of options generally adhered to by way of safeguarding the long-term best interests of the child:

- 1) family solutions (return to the birth family, foster care and adoption) should generally be preferred to institutional placement;
- 2) permanent solutions (return to the birth family, adoption) should be preferred to provisional ones (institutional placement, foster care);
- 3) national solutions (return to birth family, national adoption) should be preferred to international ones (inter-country adoption).

It is a consensus in the Philippines that the continuum of child care services must be availed of and fully exhausted before inter-country adoption is chosen. Sufficient consideration is given to possible alternative plans in the Philippines for the Filipino child in view of the difficulties in physically transferring a child from one society and culture to another. The preferrability of domestic or local adoption over inter-country adoption is encouraged as a means to preserve the child's social and cultural identity.

States of origin only

32. What are the main challenges in implementing and applying the subsidiarity principle in intercountry adoption cases in your State?

Expatriate living in the Philippines and children with the intent to adopt.

33. In your State, is the subsidiarity principle applied in the same manner to:

- (i) *intra-family* intercountry adoptions; and
- (ii) intercountry adoptions concerning children with *special needs*?

If not, please describe any different procedures used and explain the reasons for the different procedures.

Yes

Receiving States only

34. (a) In accordance with the principle of co-responsibility,³⁰ what information, if any, does your State routinely request *in each intercountry adoption case* to ensure that the subsidiarity principle has been respected in the State of origin?

N/A

³⁰ See, e.g., Chapter 12 of GGP No 2.

- (b) Is it possible and / or common in your State for a proposed matching of child and PAPs to be rejected on the basis that the relevant competent authority / body is not satisfied that the subsidiarity principle has been respected in the particular case?

N/A

35. In some States of origin, the child protection infrastructure necessary to implement the subsidiarity principle does not exist or is severely deficient, making proper implementation of the Convention in this respect challenging. Does your State undertake any programmes to assist States of origin with the development of their child protection systems³¹ in order for them to better implement the subsidiarity principle either:

- (a) at State level (e.g., in the form of development aid or technical assistance)?

N/A

and / or

- (b) through other bodies such as non-governmental organisations (which are not adoption accredited bodies)?

N/A

If so, please specify how it is ensured that any such programmes do not compromise the integrity of intercountry adoption procedures and / or result in a dependence upon these forms of assistance:

- Please insert text here -

B. Mobility and globalisation

Both States of origin and receiving States

36. How, if at all, does your State define "habitual residence" for the purposes of the Convention? What factors are considered when determining where persons are habitually resident for Convention purposes?

Habitual residence is defined by being the country which has become the focus of the PAPs domestic and professional life.

37. What are the most common scenarios in which your State has encountered difficulties in determining the "habitual residence" of PAPs and / or a child?

PAPs who do not disclose that they are former Filipino citizens who have re-acquired their citizenship, thus becoming dual citizens and adopt a child through the Philippine Domestic Adoption Act; those who are non-Filipino citizens or foreigners, married to Filipinos who have taken residence in the Philippines but return to their home country after having adopted a child; expatriates who temporarily reside in the Philippines and adopts through the Philippine Domestic Adoption Act and brings the adoptive child to their home.

38. Please describe any restriction that your State places on individuals' ability to adopt intercountry based on their:

- (a) nationality; and / or

³¹ See SC 2000 C&R No 10, which stated that "[r]eceiving countries are encouraged to support efforts in countries of origin to improve national child protection services... However, this support should not be offered or sought in a manner which compromises the integrity of the intercountry adoption process", as well as SC 2010 C&R No 6. See also para. 553 of GGP No 2 which states that receiving States have "an additional responsibility to assist States of origin to improve their child protection and adoption systems. This is essential if all of the Convention's safeguards are to be applied...".

(b) immigration status (*i.e.*, permission to reside in your State).

- The law provides that the country must have good relations with the Philippines, Foreigners must be a resident of at least 3 continuous years. -

39. How does your State deal with situations in which PAPs, habitually resident in one State, move to another Contracting State after initiating intercountry adoption proceedings (in accordance with Art. 14) but *while the adoption process is ongoing*? Does your State's response vary if the move is instead to a non-Contracting State?

- We try to coordinate with the third Central Authority or enter into a Memorandum of Agreement if the state is not a contracting state. -

40. How does your State deal with situations in which PAPs are either non-nationals living in your State, or nationals of your State living in another State, and:

(a) your State does not consider the PAPs to be habitually resident in your State and the other State also does not consider them to be habitually resident in their State (*i.e.*, the PAPs are in a situation where they cannot make an application to adopt intercountry)?

- We request them to coordinate with the country of their nationality to ensure that the child will be recognized as a national of that state.

or

(b) both your State and the other State consider the PAPs to be habitually resident in their State?

Request for information on the would be nationality of the prospective adoptive child.

Example: PAPs are nationals of State A but, due to the nature of their work, have to move regularly to live in other countries for varying periods. Recently, they moved to State B for a one-year work contract. They now wish to adopt a child from State C.

(a) State A says these PAPs are not habitually resident in State A as they are not currently living there. State B also determines that they are not habitually resident in State B since they will leave the State at the end of one year.

OR

(b) State A says the PAPs are habitually resident in State A as they are abroad for a limited, finite period and State A is the only country in which they have the intention to reside long-term. State B also determines that these PAPs are habitually resident in State B as they are currently living in State B.

-Please insert text here-

41. How does your State deal with situations in which PAPs are nationals of your State, are habitually resident in another State and wish to adopt a child from a third State? What role, if any, does your State play in the intercountry adoption in this scenario (*e.g.*, is your State involved in securing the nationality of your State for the child, any other role)?

Philippines is not a receiving country however, Philippine nationals are assisted and advised based on Philippine laws. Coordination is made with the Central Authority by of the country origin.

C. Use of modern technologies³² in intercountry adoption³³

In general

³² In this document "modern technologies" is taken to mean the Internet and modern communication methods, such as e-mail, video-conferencing and social media.

³³ If your State responded to the 2013 ISS/IRC Questionnaire on new technologies and adoption (ISS/IRC Circular No 118), you may wish to refer to this response in your answers to this section.

Both States of origin and receiving States

42. Please briefly describe any laws, regulations or policy guidelines which exist in your State concerning the use of modern technologies in the field of adoption.³⁴ Where possible, please provide a hyperlink to these laws, regulations or guidelines or provide a copy, with a translation into English or French.

The ICAB issued two (2) Board Resolutions (BR 045-37 s 2009 and BT 054-46 s 2010). BR 045-37 series of 2009 explicitly prohibits the uploading to the internet of photos and identifying information of Filipino children by foreign adoption agencies and child caring institutions to safeguard the right to privacy of the children. In cases of Special needs Children, only useful information that will enable the prospective adoptive parents to make an informed consent maybe uploaded to the internet. violation of the policy will be a basis/ground for suspension or revocation of accreditation. BR 054-46 series of 2010 indicated that there are advertisements identifying Child Caring Agencies as beneficiaries in the internet depicting demeaning conditions of Filipino children in order to influence a person to provide donations. The posting of such advertisements violates the child's right to privacy, honor and reputation as guaranteed by the UNCRC. The Board resolved that uploading of advertisements in the internet using Filipino children as means to solicit donation is prohibited and shall be a ground for suspension or revocation of the child caring agencies' accreditation.

43. Does your State regularly use modern technologies in the field of intercountry adoption, both generally, as well as in individual intercountry adoption cases?³⁵

If so, please describe which technologies are used, at what stage(s) of the intercountry adoption procedure and how the use of these technologies affects your daily work.

If not, please explain the reasons for this (*e.g.*, no access to modern technologies due to resource constraints, infrastructure problems or an absence of training).

- Yes, transmittal of documents and post placement reports for faster processing and updating.

44. In your State's experience, what (a) benefits³⁶ and (b) risks have modern technologies brought to the field of intercountry adoption? Please describe how your State attempts to manage any perceived risks.

Benefits include the faster processing of documents and immediate attention to queries/emergencies i.e. placement issues. Risks may be the breach of confidentiality

45. Please briefly explain any specific courses, training or information which is / are provided on the use of modern technologies in the adoption process to:

- (a) the authorities and bodies involved in intercountry adoption in your State.³⁷
- Please insert text here -

and / or

- (b) PAPs, biological families and adoptable children (or adoptees, if the information is provided subsequent to the adoption)³⁸ – *e.g.*, are the risks of the use of these technologies part of the programmes of counselling and preparation of PAPs,

³⁴ *E.g.*, legislation might concern data protection and rules concerning the online storage of data in adoption cases, the use of photo-listings, the use of the Internet in searching for origins or the use of DNA testing in adoption cases.

³⁵ *E.g.*, Internet and websites, e-mail, video-conferencing facilities such as Skype, online posting of informational videos, social media, etc.

³⁶ *E.g.*, websites for provision of information, fast sending of applications and reports, facilitation of contact between accredited bodies and PAPs during their stay abroad, facilitation of contact with representatives of accredited bodies, video-conferences to provide information concerning the health of children.

³⁷ *E.g.*, in relation to its use by adoptees or families to search for origins, or in relation to the use of online databases of adoptable children.

³⁸ Depending upon whether your State is a receiving State or a State of origin (or both).

adoptable children or biological families and is any post-adoption support provided in relation to these issues?³⁹

- Please insert text here -

In either case, where possible, please provide hyperlinks to or copies of any information or training material provided (e.g., publications, leaflets, websites), along with a translation into English or French.

46. Does your State use and / or accept from other States scanned documents in intercountry adoption cases (e.g., scanned and e-mailed Art. 17 c) agreements, Art. 23 certificates)?

Yes

If so:

- (a) Please specify which documents are sent or accepted in scanned format:

Sent by ICAB to CA/FAA :

1. Approval of Adoption Application
2. Notice of Child Referral
3. Travel Itinerary for PAPs
4. Notice of Departure/Travel of PAPs with PAC

Accepted by ICAB from CA/FAA

1. Official Acceptance of PAPs to Child Referral
2. Post Placement Reports (PPRs)
3. Adoption Decree (AD)
4. Disruption Reports

- (b) Are these scanned versions used or accepted *instead of* the original documents or *in addition to* the original versions (i.e., the original documents follow later by post)?

Yes, Post Placement Reports and Adoption Decree

- (c) Is any authentication of the scanned document required (e.g., legalisation or apostillisation)?⁴⁰

None

- (d) How are scanned documents stored and how is the security of the information guaranteed?

Once scanned documents are received by ICAB, these are downloaded and becomes the hardcopy filed in respective case files of adoptive parents and adoptive child.

If not, please explain the reasons for this:

- Please insert text here -

Using modern technologies to assist with finding a suitable family for a child

Both States of origin and receiving States

³⁹ E.g., concerning making contact via the Internet, posting confidential information on social media websites or using social media to search for origins.

⁴⁰ See the *Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* (the "Apostille Convention", concluded 5 October 1961).

47. Does your State use, or permit others to create and use, online “photo-listings”⁴¹ of adoptable children?

Photolisting is generally not allowed but for Special Home Finding cases it is allowed if password protected and those who have access are known to the accredited body.

If so, please explain:

- (a) whether these listings include profiles of *all* adoptable children in your State or only certain categories of children (*e.g.*, children with special needs):

Among children for special home finding only and require the FAA/CA to use security features when uploading the brief background summary of the adoptable child/ren - no identifying information are indicated in the photo-list given to the FAA/CA only corresponding case number.

- (b) which authorities or bodies create / operate these online listings in your State (*i.e.*, is this under State control or the control of other adoption actors?):

ICAB furnish the FAAs/CAs on a monthly basis the list of special home finding children which includes a summary profile of the child's case and picture. FAAs/CAs may upload these to their respective password websites with the case number of the child and synopsis of child's case/profile.

- (c) who is permitted to access the listings:

Once uploaded in the FAA/CA website, accessibility must be controlled and limited by requiring registration.

- (d) what safeguards have been implemented to protect the privacy of the children concerned (*e.g.* restricted access for Central Authorities and accredited bodies only):

No identifying information is allowed released without the permission of ICAB.

- (e) how it is ensured that the use of such listings is in conformity with the matching process set forth in the Convention (*i.e.*, matching by the competent authority in the State of origin after the suitability and eligibility of the PAPs has been determined):

No matching transpires based on the photo-listings alone. ICAB requires that the interested PAPs for the particular child undergo the regular process and procedure of Philippine ICA application and their eligibility and suitability is determined based on the needs of the child.

Using modern technologies to search for origins

Both States of origin and receiving States

48. Do the relevant competent authorities in your State use social media (*e.g.*, Facebook, Twitter) to help adoptees search for their origins? If so, are there any guidelines or good practices regarding the use of social media by authorities / bodies for this purpose?

No, ICAB does not use the social media to locate or search for the birthparents of adult adoptees. ICAB has not developed any guidelines in the use of social media for the search of birthparents/family.

49. Has your State had any cases in which PAPs / adoptees and birth families have contacted each other via social media or other modern methods of communication after an adoption and without the involvement of professionals? If so, please specify the situations which have arisen, the challenges faced and how these challenges have been overcome.

⁴¹ In this document, “photo-listings” means databases which include photographs and descriptions of the background and characteristics of adoptable children. They often have limited, protected access (*e.g.*, for Central Authorities and accredited bodies only) and may be used to search for families for children who are hard to place.

Yes, the adult adoptee (18 years old) contacted a former employee of the orphanage through social media and enlisted the assistance to locate her birthmother. The former employee was involved during the admission to the orphanage of the child and have met the birthmother who voluntarily committed the child. Despite the ICAB's insistence to involve professionals for the search and reunion process, the adult adoptee vehemently refused ICAB's assistance. Non-involvement of professionals for search and reunion runs a very high risk of negative experience as preparation of the birthparents/adult adoptee and leveling of their expectations were not taken into consideration.

Another case is a sibling adult adoptees from Europe who searched for their birthmother in the social media and found a half-brother. They did not introduce themselves but instead befriended him and got identifying information. The identifying informations were validated in the available documents they have on hand. The sibling adult adoptee requested ICAB to verify the circumstances of the befriended half-brother and gave the current address of the "birthmother". ICAB located the birthmother and half-siblings. The stories provided were validated and the circumstances of the adoption placement was consistent with the records on file. Update on the search and validation of the information was provided to the FAA who in turn shared with the adult adoptee and adoptive parents. Shortly after, the FAA notified the ICAB that the adult adoptees have disclosed their identities to their half-brother and continue to communicate with them through social media. It was learned that the adult adoptees underwent search therapy counseling which prepared them for the eventualities of the search process.

D. Illicit practices⁴²

In general

Both States of origin and receiving States

50. Please describe the practices relating to the abduction, sale of or traffic in children or other illicit practices which your State has experienced most frequently in the context of intercountry adoption since the last Special Commission meeting (2010), regardless of whether these practices have taken place in your State or in another Contracting State.

- Prospective Adoptive Parents (PAPs) taking children abroad as tourists then adopting them in a foreign country.

51. Please provide details of any specific examples in which your State has worked either alone or in co-operation with other Contracting States in order to prevent and / or address practices relating to the abduction, sale of or traffic in children or other illicit practices in the context of intercountry adoption. Was Article 33 ever relied upon in such cases? If so, please describe what measures were taken and the outcome.

Yes, The Maltese Central Authority has alerted ICAB on pregnant Filipinas brought there to give birth and with a specific family waiting for the child.

52. Has your State ever suspended or restricted its intercountry adoption programme (e.g., introducing a moratorium, refusing to work with a particular Contracting State) because of concerns about the risk of abduction, sale of or traffic in children or other

⁴² In this Questionnaire, the term "illicit practices" is used in the same sense as in the "Discussion Paper Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases" (October 2012), available on the specialised "Intercountry Adoption Section" of the Hague Conference website: *i.e.*, it "refers to situations where a child has been adopted without respect for the rights of the child or for the safeguards of the Hague Convention. Such situations may arise where an individual or body has, directly or indirectly, misrepresented information to the biological parents, falsified documents about the child's origins, engaged in the abduction, sale or trafficking of a child for the purpose of intercountry adoption, or otherwise used fraudulent methods to facilitate an adoption, regardless of the benefit obtained (financial gain or other)."

illicit practices? If so, did the suspension or restriction assist with efforts to combat these practices? What challenges did your State encounter in seeking to resume intercountry adoptions or lift any restrictions once practices had been improved?

N/A

E. Other international placements of children which result in adoption

Kafala resulting in adoption

Receiving States only

53. Are persons, habitually resident in your State who have a child placed into their care under kafala in another State, permitted to subsequently adopt the child in your State?⁴³

Example: a child, habitually resident in State A, is placed into the care of a couple under the regime of kafala by the court in State A. The couple habitually resides in State B (your State) and the understanding is that they will return immediately to State B to live with the child. Under your State's laws, are the couple permitted to subsequently adopt the child in your State, State B?

N/A

If so, please explain:

- (a) the reasons for this:
 - Please insert text here -
- (b) the procedure, including any involvement of the State of origin:
 - Please insert text here -
 and
- (c) whether this would be a "simple" or a "full" adoption:
 - Please insert text here -

Respite care abroad resulting in adoption⁴⁴

Both States of origin and receiving States

54. If your State is involved in respite care programmes⁴⁵ for children, please explain:

- (a) whether such programmes specifically aim to be a precursor to adoption for some children (e.g., for children with special needs):
 - > ICAB's Hosting program in cooperation with USA-based FAAs where children cleared for intercountry adoption are hosted by a family either during summer, spring, autumn or winter for 3-4 weeks to experience family life and exposure to different culture and lifestyle.
 - > Children requiring special surgery are sent for a "medical mission".

⁴³ N.B. the provision of care by kafala falls within the scope of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (the "1996 Convention") (Art. 3 e) of the 1996 Convention) and thus kafala placements benefit from its unified rules on jurisdiction, applicable law and the recognition and enforcement of measures between Contracting States. In addition, the 1996 Convention contains mandatory co-operation provisions with which Contracting States must comply when a cross-border kafala placement is contemplated between them (Art. 33 of the 1996 Convention). For further information concerning kafala and the 1996 Convention, see the [Practical Handbook on the 1996 Convention](#) available on the Hague Conference website < www.hcch.net >.

⁴⁴ See GGP No 1 at paras 561 to 563.

⁴⁵ I.e., programmes in which children from certain States of origin, often children living in institutional or other non-family based alternative care, are hosted temporarily by families in other States for "holidays" to improve the child's mental and physical well-being.

- (b) whether such programmes have, in fact, resulted in the adoption of children and, if so, approximately what percentage of children involved in the programmes are adopted:

Yes, the hosting program resulted in host families pursuing adoption. 85% of hosting participants were eventually adopted by their host families or advocate families.

and

- (c) where a child is adopted following such a programme, how it is ensured that the safeguards of the Convention have been respected (bearing in mind that it is likely that the child remains “habitually resident” in his / her State of origin and thus the adoption falls within the scope of the Convention according to Art. 2):⁴⁶

The hosting program participants are required to return to the Philippines and brought back to their center or foster homes. Should the host family decide on pursuing the adoption, the whole regular process and phases of adoption are complied with.

Foster care resulting in adoption

Both States of origin and receiving States

55. Is your State aware of cases in which a domestic foster care placement has been used in order to circumvent Convention intercountry adoption procedures? If so, please provide details, including the challenges which these cases have presented and any good practices your State has developed to deal with such cases.

Example: a couple, usually resident in State A, travels to State B and applies to foster a child. They intend to apply to adopt this child in State B and to return shortly thereafter to live in State A.

Yes. The cases are treated based on the best interest of the child. If it is determined that it is detrimental to the child to be separated from the family, adoption will be allowed but compliance with convention principles are required.

F. Triangular adoptions⁴⁷

Both States of origin and receiving States

56. Does your State allow PAPs wishing to adopt intercountry to use an accredited body located in a *third* State to mediate the adoption (*i.e.*, an accredited body *not* located in the State of origin or in the receiving State)? If so, please briefly describe any conditions imposed by your State,⁴⁸ the procedure used and any challenges encountered. Please also share any good practices your State has developed in relation to such cases.

PAPs have to apply through ICAB's accredited adoption agency in their country of residence. The third state will be involved with _____ to _____ and residency requirements but the important issue is nationality.

G. International surrogacy arrangements⁴⁹ and intercountry adoption⁵⁰

⁴⁶ *E.g.*, how it is ensured that: the child is legally and psycho-socially adoptable; the subsidiarity principle is respected; the eligibility and suitability of the PAPs is appropriately assessed; the Convention requirements concerning professional “matching” are met; and the child and parents are appropriately prepared, informed and counselled for the adoption.

⁴⁷ For a definition of “triangular adoption”, please see GGP No 1 at Chapter 8.8.7.

⁴⁸ See the good practices recommended at para. 555 of GGP No 1.

⁴⁹ The term “international surrogacy arrangement” is used in this Questionnaire to mean “a surrogacy arrangement entered into by intending parent(s) resident in one State and a surrogate resident (or sometimes merely present) in a different State”. (See further the Glossary attached to the “Report on the desirability and feasibility of further work on the Parentage / Surrogacy Project” (Prel. Doc. No 3B of March 2014).)

⁵⁰ Please note that the issue of international surrogacy arrangements is being studied separately by the Hague Conference in the context of its “Parentage / Surrogacy Project”: for further information on this Project, please see the specialised section of the Hague Conference website, under “Parentage / Surrogacy Project”. These questions therefore only relate to the use of the 1993 Convention and related bodies / authorities in these cases.

Both States of origin and receiving States

57. Following the recommendations of the 2010 Special Commission meeting,⁵¹ has your State experienced any cases of international surrogacy arrangements in which use of the 1993 Hague Convention has been sought in order to remedy the situation of the legal status of the child? If so, please explain the circumstances in which this occurred, how it was ensured that the safeguards of the Convention were respected, and the outcome for the child and family.

No.

IV. SERVICES AND SUPPORT PROVIDED BY THE HAGUE CONFERENCEBoth States of origin and receiving States

58. Are the following documents used in your State as tools to assist with the operation of the Convention and / or to periodically review your State's intercountry adoption system and processes:

- (a) the Conclusions and Recommendations of previous Special Commission meetings:

Yes, The Conclusions and Recommendations are used as policy guidelines.

- (b) Guide to Good Practice No 1 *"The Implementation and Operation of the 1993 Intercountry Adoption Convention"*:

Yes

- (c) Guide to Good Practice No 2 *"Accreditation and Adoption Accredited Bodies"*:

Yes

- (d) the tools⁵² developed by the Experts' Group on the Financial Aspects of Intercountry Adoption:

Tools have been shared with local authorities to put in contact the fee structure.

- (e) the "Discussion Paper on Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases":⁵³

Yes

Please explain how these tools are currently promoted in your State and how they could, in your State's view, be more effectively promoted at the regional and / or international level:

A publication of specific cases to which the tools have helped.

59. In light of the fact that the importance of ICATAP (the "Intercountry Adoption Technical Assistance Programme" of the Hague Conference) to the proper implementation and operation of the 1993 Convention has been reiterated by Special Commission meetings and by meetings of the Council on General Affairs and Policy for many years, does your State have any suggestions as to how to secure more regular and consistent funding for this work at the Permanent Bureau, including for the key position of the ICATAP Co-ordinator?

An "assessment" fund from convention countries.

⁵¹ See SC 2010 C&R Nos 25 to 26 in which it was stated that the Special Commission "viewed as inappropriate the use of the Convention in cases of international surrogacy".

⁵² See the tools developed by the "Experts' Group on the Financial Aspects of Intercountry Adoption", available on the Intercountry Adoption Section of the Hague Conference website, under "Expert and Working Groups": *i.e.*, the harmonised Terminology adopted by the Experts' Group on the financial aspects of intercountry adoption, the Note on the financial aspects of intercountry adoption, the Summary list of good practices on the financial aspects of intercountry adoption and the Tables on the costs associated with intercountry adoption.

⁵³ Available on the Intercountry Adoption Section of the Hague Conference website, under "Expert and Working Groups".

Is there any other comment your State wishes to make concerning the implementation and / or operation of the 1993 Convention?

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